

WEISS SEROTA HELFMAN
PASTORIZA GUEDES COLE & BONISKE, P.A.

ATTORNEYS AT LAW

MITCHELL A. BIERMAN
NINA L. BONISKE
JAMIE ALAN COLE
EDWARD G. GUEDES
STEPHEN J. HELFMAN
JOHN R. HERIN, JR.
GILBERTO PASTORIZA
GARY I. RESNICK
JOSEPH H. SEROTA
NANCY E. STROUD
RICHARD JAY WEISS
DAVID M. WOLPIN
STEVEN W. ZELKOWITZ

THOMAS J. ANSBRO*
LILLIAN ARANGO DE LA HOZ*
ALISON S. BIELER
MITCHELL J. BURNSTEIN
ELAINE M. COHEN
VIVIAN DE LAS CUEVAS-DIAZ

MIAMI-DADE OFFICE
2665 SOUTH BAYSHORE DRIVE
SUITE 420
MIAMI, FLORIDA 33133

TELEPHONE 305-854-0800
TELECOPIER 305-854-2323
WWW.WSH-FLALAW.COM

BROWARD OFFICE
3107 STIRLING ROAD • SUITE 300
FORT LAUDERDALE, FLORIDA 33312
TELEPHONE 954-763-4242 • TELECOPIER 954-764-7770

*OF COUNSEL

STEPHANIE DEUTSCH*
JENNIFER A. GOLDBERG
DOUGLAS R. GONZALES
CHRISTOPHER F. KURTZ
HARRIET R. LEWIS*
PETER A. LICHTMAN
KAREN LIEBERMAN*
MATTHEW H. MANDEL
BERNARD S. MANDLER*
MICHAEL J. MARRERO
ALEXANDER L. PALENZUELA-MAURI
MICHAEL S. POPOK*
ANTHONY L. RECIO
MARK A. ROTHENBERG
SCOTT A. ROBIN
GAIL D. SEROTA*
JEFFREY P. SHEFFEL
MIA M. SINGH
JOSE S. TALAVERA
SUSAN L. TREVARTHEN

December 4, 2003

VIA HAND DELIVERY

Ms. Diane O'Quinn Williams
Director
Miami-Dade County
Department of Planning & Zoning
111 N.W. 1st Street
11th Floor
Miami, Florida 33128

**Re: Appeal of Community Zoning Appeals Board 14 Decision Concerning
Application No. 03-150; Applicant FRV Development**

Dear Ms. O'Quinn Williams:

Pursuant to Section 33-313 of the Miami-Dade County Zoning Code (the "Zoning Code"), FRV Development hereby files this notice of appeal of the Community Zoning Appeals Board 14 (the "CZAB") denial of Application No. 03-150. The subject application requested a district boundary change from AU to RU-3M for an approximately four acre parcel designated by the Comprehensive Development Master Plan (the "Master Plan") for low to medium density (6-13 units per gross acre) development. FRV Development appeals this decision because the denial was inconsistent with the Master Plan, did not meet the essential requirements of law, was arbitrary, discriminatory, and unreasonable, and because the decision was tainted by the participation of certain CZAB members who had an indirect interest in the application in contravention of Section 33-312 of the Zoning Code. For these reasons, FRV Development requests that the Board of County Commissioners hear this appeal and reverse the CZAB decision as soon as possible. We offer the following in support of this appeal.

*Diane -
Let him know
we will get him
on in Feb.
Jye*

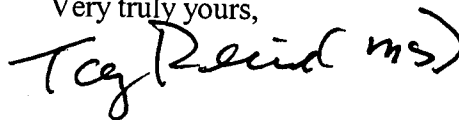
Ms. Diane O'Quinn Williams
December 5, 2003
Page 2 of 2

Florida law clearly establishes that once a property owner proves that a proposed rezoning is consistent with the Master Plan and complies with all procedural requirements of the Zoning Code, the burden shifts to the governmental entity "to demonstrate that maintaining the existing zoning classification with respect to the property accomplishes a legitimate public purpose." *Board of County Commissioners of Brevard County v. Snyder*, 627 So.2d 469 (Fla. 1993). See also *Miami-Dade County v. Wahlberg*, 739 So.2d 115 (Fla. 3d DCA 1999). In the subject application, the Applicant submitted extensive proof of consistency with the Comprehensive Plan and voluntarily entered into a covenant limiting development of the property to a specific site plan that had been reviewed by Planning and Zoning staff and determined to be compliant with the Zoning Code. Planning and Zoning staff applied the correct legal criteria in their analysis of the application and recommended approval of the application. Once these criteria had been established by both the Applicant and staff, the burden shifted to the CZAB to show by substantial competent evidence that the denial accomplished a legitimate public purpose. In denying the Application, the CZAB failed to articulate and establish a legitimate public purpose. The CZAB's refusal to rezone was therefore arbitrary, discriminatory, and unreasonable.

Furthermore, Section 33-312 of the Zoning Code provides that members of the CZAB that have an indirect financial interest in the outcome of a matter shall abstain from participation in the proceedings. Although two members of the CZAB admitted ownership of property in very close proximity to the subject application, neither member abstained from further participation in the hearing. The failure to abstain from participation renders the action of the CZAB voidable by the Board of County Commissioners pursuant to Section 33-312 of the Zoning Code.

In connection with this appeal, we have enclosed a check in the amount of \$923.40 for the appeal fees and a second check for \$576.84 for radius fees to satisfy your Department's requirements. As such, please accept this appeal and schedule the hearing before the Board of County Commissioners as soon as possible. Please call me if you have any questions.

Very truly yours,

A handwritten signature in black ink that reads "Tony Recio ms". The signature is written in a cursive, flowing style.

Tony Recio

TR/ms
938001
Attach.

F.R.V. DEVELOPMENT

10600 S.W. 127th. St.
Miami, Florida 33176
Ph: 305-255 0007
Fax: 305- 255 1715

May 6th. 2003

Miami-Dade County
Department of Planning and Zoning
111 N.W. First St.
Miami, Florida

Re: Re-Lots 18241 and 18251 S.W. 109th. Ave.
West Perrine, Florida 33157

RECEIVED
203-150
MAY 7 - 2003

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.

BY DS

Dear Sirs:

This letter shall serve as the letter of intent requesting a zoning
change from Au to RU-3M

Awaiting for your favorable response, I remain

Sincerely yours,

F.R.V. Development


Henry Forrero
Managing Partner

mjs/townhomes/rezoning

cell-305-606-8178
called left msg
re deferred dialogue
6/22/03 @ 11:03 AM TK